

**2849, 2851, 2853, 2855 and 2857 Islington Avenue–
Residential Rental Demolition and Conversion
Application Under Municipal Code Chapter 667– Final
Report**

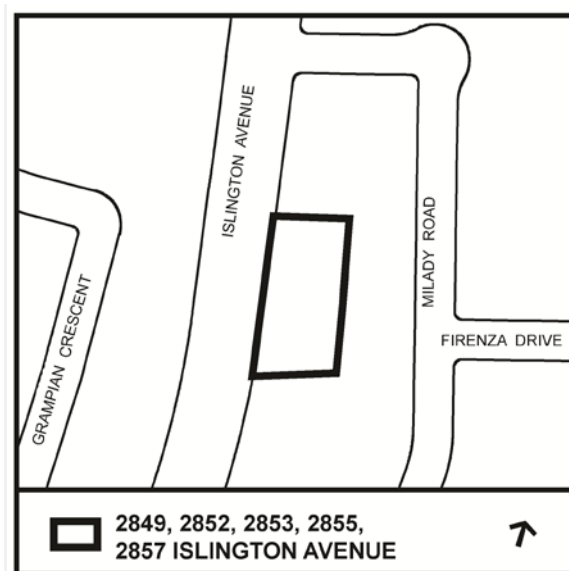
Date:	December 15, 2015
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 7 – York West
Reference Number:	15 106841 WET 07 RH

SUMMARY

The applicant has submitted an application for a Section 111 permit to demolish 6 residential rental units, out of a total of 10 residential units in one detached and four semi-detached houses at 2849, 2851, 2853, 2855 and 2857 Islington Avenue under Chapter 667 of the Toronto Municipal Code, pursuant to Section 111 of the *City of Toronto Act*. The proposal is to replace the demolished units with 6 replacement rental units to be wholly on the site in a 5 storey residential building approved for the lands. The proposed units are to be located in two clusters in a condominium building.

A Zoning By-law Amendment application for the proposed redevelopment was appealed to the Ontario Municipal Board (OMB) on August 11, 2014. In late August, 2014, City Council directed staff to settle the appeals with the applicant and to determine the requirements of demolition permissions under Section 111 of the *City of Toronto Act*, if necessary.

An application for a Section 111 permit, pursuant to Chapter 667 of the Toronto



Municipal Code has been made for the 6 residential rental units on the site.

This report provides the results of the determination on the rental housing matters, and recommends the approval of a Section 111 permit under Chapter 667 and Chapter 363 of the Municipal Code for the demolition of the 6 existing rental units, subject to conditions. The conditions include the replacement of the 6 rental units and the provision of tenant assistance for all tenants, including the right for tenants of the three affordable units to return to occupy a rental unit in the new building. This report recommends entering into an Agreement under Section 111 to secure these conditions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application for a Section 111 permit to demolish 6 residential rental dwelling units and 4 residential dwelling units pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing as outlined in the December 15, 2015 report from the Director of Community Planning, Etobicoke York District:
 - a. The owner shall provide and maintain six (6) rental replacement units, consisting of: two (2) affordable three bedroom units and one (1) affordable one bedroom unit for a period of at least ten (10) years from the date of first occupancy of those units; and one (1) one bedroom and two (2) two bedroom units of unlimited rents. These units must be maintained as rental housing for a period of at least 20 years, and located on the subject site as shown on the plans submitted to the City Planning Division dated October 23, 2015, with any revisions to the satisfaction of the Chief Planner and Executive Director, City Planning.
 - b. The owner shall provide tenant relocation assistance to all eligible tenants, including financial assistance beyond the minimums of the Residential Tenancies Act and the right of tenants of the affordable units to return to a replacement rental unit. These requirements will be outlined in a Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner and Executive Director, City Planning.
 - c. The owner shall enter into and register on title one or more Section 111 Agreement(s) to secure the conditions outlined in (a) and (b) above to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.
 - d. The owner shall enter into and register on title, a Section 118 Restriction under the *Land Titles Act*, to the satisfaction of the City Solicitor agreeing not to transfer or charge those parts of the lands, comprising the 6 replacement rental

units, without the written consent of the Chief Planner and Executive Director, City Planning or her designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.

2. City Council authorize the Chief Planner and Executive Director, City Planning to issue the Section 111 permit to the applications for demolition for the rental units in 2849, 2851, 2853, 2855 and 2857 Islington Avenue under Municipal Code Chapter 667 after the following has occurred:
 - a. Satisfaction or securing of the conditions in Recommendation 1.
 - b. The Draft Zoning By-law Amendment that is before the Ontario Municipal Board is confirmed, to the satisfaction of the City Solicitor, to be in final form.
 - c. After the execution and registration of a Section 37 Agreement pursuant to the *Planning Act* securing the conditions in Recommendation 1 (a-d).
 - d. The issuance of the Notice of Approval Conditions for the site plan approval by the Chief Planner and Executive Director, City Planning or her designate, pursuant to Section 114 of the *City of Toronto Act*, 2006.
3. City Council authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

A Zoning By-law Amendment application proposing a 5-storey apartment building containing 111 units and 7,600 m² of gross floor area was submitted on April 15, 2013 and a Preliminary Report outlining the proposal was considered by Etobicoke York Community Council on May 13, 2013. An Official Plan Amendment application was subsequently filed on May 10, 2013 to allow for this proposed 5 storey apartment building within the *Neighbourhoods* designation of the site.

Following is the link to that report:

<http://www.toronto.ca/legdocs/mmis/2013/ey/bgrd/backgroundfile-57899.pdf>

On August 11, 2014, the solicitor representing the owner of the lands appealed the Official Plan and Zoning By-law Amendment applications to the Ontario Municipal Board (OMB), citing Council's failure to make a decision within the time prescribed by the *Planning Act*.

A Refusal Report on the application was considered by Etobicoke York Community Council on August 12, 2014. The Refusal Report can be viewed at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY35.8>

At its meeting of August 25, 26, 27 and 28, 2014, City Council amended the Etobicoke York Community Council recommendation to: oppose the application; required the applicant to submit outstanding materials related to Section 111 and the Housing Issues Report; and directed Planning staff to continue discussions with the applicant to bring the application into conformity with the policies of the *Neighbourhoods* designation of the Official Plan. The City Council decision can be viewed at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY35.8>

The applicant submitted a complete Rental Housing Demolition and Conversion Application on January 24, 2015.

On April 17, 2015, the Ontario Municipal Board issued a decision approving the draft Official Plan and Zoning By-law Amendments. The OMB withheld its final Order until the applicant fulfills the recommendations set out in the City Solicitor's report dated March 23, 2015 and entitled Request for Direction 2849, 2851, 2853, 2855 and 2857 Islington Avenue- Official Plan and Zoning By-law Amendment Application. The Board's decision can be found at: <http://www.omb.gov.on.ca/e-decisions/pl140903-Apr-17-2015.pdf>

ISSUE BACKGROUND

A Rental Housing Demolition and Conversion Declaration of Use and Screening Form was submitted with the Zoning By-law Amendment application received dated April 15, 2013 that declared that no rental uses existed on the site with this application.

At a community meeting held June 10, 2013, local residents noted that there were rental units on the subject lands. Staff noted this discrepancy in the Refusal Report dated July 18, 2014. A new Declaration Of Use and Screening Form was submitted dated August 8, 2014 that declared that there were less than 6 units on the site, but that some were rental and therefore no Section 111 application was required. This form was incomplete.

At the meeting of August 25, 26, 27 and 28, 2014, Council required that the applicant address the outstanding matters related to the rental units on the site. A site visit was conducted on November 14, 2014 and a complete application for Rental Housing Demolition and Conversion was received January 24, 2015.

Proposal

This application for a Section 111 permit proposes to demolish five (5) house-form buildings that contain a total of 10 units, of which 6 have been determined to be rental units. Working with staff, the applicant has proposed to replace the rental housing units within the five storey condominium building that the OMB approved for the site.

The applicant will provide tenant assistance, including the right to return for tenants of the affordable units.

Site and Surrounding Area

These are 5 house form buildings that contain the following uses observed during the site visit of November 14, 2014:

- 2849 Islington Avenue is a single family detached dwelling and was owner occupied at time of application.
- 2851 Islington Avenue is a split-level semi-detached house and contained three units:
 - the upper unit is a three bedroom unit and was owner occupied;
 - the lower unit is a 1 bedroom unit, rented as 3 rooms; and
 - the basement unit is a one bedroom, rented as 3 rooms.
- 2853 Islington Avenue is a split level semi-detached house and contains two units:
 - the upper unit is an affordable three bedroom rental unit; and
 - the lower unit is a two bedroom unit, rented as 5 rooms.
- 2855 Islington Avenue is a split level semi-detached house (with two kitchens) and was owner occupied.
- 2857 Islington Avenue is a split level semi-detached house and contained three units:
 - the upper unit is an affordable three bedroom rental unit;
 - the lower unit is an one bedroom unit and was owner occupied; and
 - the basement unit is an affordable one bedroom rental unit.

Surrounding land uses are as follows:

North: two storey semi-detached houses, St. Roch Catholic Elementary School and St. Roch Catholic Church;

South: two 9- storey apartment buildings, Gord and Irene Risk Park and Community Centre;

West: across Islington Avenue are the rear yards of semi-detached houses fronting Grampian Crescent, Islington Park and Rowntree Mills Park; and

East: residential neighbourhood consisting of predominately two storey semi-detached houses.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* lists the provision of affordable housing as a matter of provincial interest that municipalities shall have regard for when making planning decisions.

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key objectives include: building strong, healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. The housing policies of the PPS require planning authorities to provide for an appropriate range of housing, including affordable housing, to meet the needs of current and future residents. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan contains policies addressing the need to provide and maintain the City's supply of rental and affordable housing. Section 3.2.1 of the Official Plan includes policies that encourage the provision of a full range of housing, in terms of form, tenure and affordability and the protection of rental housing units as well as housing that makes more efficient use of the existing building stock.

Section 3.2.1.2 provides that the existing stock of housing will be maintained and replenished. Applicants proposing to demolish six or more residential rental units, except where all the rents are above the mid-range rent category, are required by policy 3.2.1.6 to replace the rental units with the same number, size and type of rental housing units and maintain them with rents similar to the rents of existing units on the site. Owners are required to assist tenants with hardship for relocation and secure the rights of tenants to return to similar units at similar rents.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007) established Chapter 667 of the Municipal Code and implements the City's Official Plan policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the *City of Toronto Act*. Proposals involving six or more residential units, where at least one of the units proposed for demolition or conversion is a rental housing unit, require an application for a Section 111 permit.

Under Chapter 667 conversion of rental dwelling units is prohibited without a permit, including "conversion to: (b) Living accommodation other than dwelling units".

Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. Unlike *Planning Act* applications, decisions made by City Council under Chapter 667 of the Municipal Code are not appealable to the OMB.

Reasons for the Application

A Rental Housing Demolition and Conversion Application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) is required for the permit for the demolition of the 6 rental dwelling units, one of which had been converted by a previous owner to an unlicensed "lodging house". The applicant has proposed to replace the 6 original rental dwelling units as secured rental dwelling units in the new condominium building on the site.

Tenant Consultation

A Tenant Consultation meeting was held in accordance with Chapter 667 on April 1, 2015. Only one of the dwelling room tenants attended, as did the family who rent one of the affordable three bedroom units. Staff and the tenants discussed the maintenance of the buildings and their rights under the City's policies, including longer than usual notice periods than required by the *Residential Tenancies Act* and compensation for hardship in moving.

Agency Circulation

The application was circulated to all appropriate agencies at the City of Toronto for review and comment.

COMMENTS

Provincial Policy Statement

As affordable rental units are to be replaced within the new development on the subject site, the redevelopment of the rental units is consistent with the PPS.

Rental Housing Demolition and Replacement

Rental housing stock is a valued part of the City of Toronto's provision of housing by type, tenure and affordability throughout the City. Retention and maintenance of rental buildings is particularly important to the rental options in the City, and in the local area three bedroom units provide an affordable option for students to cohabitate or for families. The renewal of this stock and securing it for 20 years is important as a policy consideration in the evaluation of this proposal.

The owner originally disagreed with the evaluation of the rooming units as being required to be replaced. The owner produced affidavits from previous owners that stated the dwelling room use for the unlicensed lodging unit was a long-standing use that predated the inception date of Chapter 667 of the Municipal Code. These affidavits were insufficient. Other evidence of the use of the buildings as secondary suites exists from property assessment data and interviews with previous tenants of the buildings.

The owner has proposed to replace all the rental units at smaller sizes. Due to the nature of the split level houses, many of the units contained inefficient layouts including long hallways, extraneous storage and extra stairwell landing areas. The owner has proposed to replace the original rental housing units in the new building as 2-three bedroom units, 2-two bedroom units and 2-one bedroom units. All bedrooms would have exterior windows. The units would not be contiguous but would be in two clusters of three each.

Due to the nature of the use of three of the units as dwelling rooms, three units have cumulative rents higher than the mid-range threshold and are not proposed to be replaced with a rent requirement for 10 years. The other three units have been proposed to be secured at affordable rents for at least 10 years in accordance with Official Plan policy.

All the current tenants will receive an extra month's notice, moving allowances and compensation above the requirements of the *Rental Tenancies Act*. Only tenants of the affordable rental units will have the right to return to a unit after the demolition and replacement of the units. The right to return is per unit, so roommates who share a unit all share the right to return. Tenants of a dwelling room will receive compensation per dwelling room and moving allowances.

Conclusion

Staff are recommending the approval of the application for the demolition of 6 residential rental dwelling units and 4 residential dwelling units pursuant to Chapters 667 and 363 of the Municipal Code. The permit is recommended to be conditional on the applicant providing the replacement rental housing and tenant assistance as outlined in this report, and entering into a Section 111 Agreement to the satisfaction of the Chief Planner and Executive Director, City Planning to secure these conditions and which is consistent with the provisions of the Zoning By-law as approved by the Ontario Municipal Board in its Memorandum of Oral Decision dated April 17, 2015 and consistent with the rental housing provisions of the Section 37 Agreement.

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SIGNATURE

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